The Housing Trust Fund: Background and Issues

Updated May 24, 2016

Congressional Research Service
https://crsreports.congress.gov
R40781

Summary

The Housing Trust Fund (HTF) was established by the Housing and Economic Recovery Act of 2008 (HERA, P.L. 110-289) to provide funds to states to use for affordable housing activities, with a focus on producing rental housing for extremely low-income households. It is administered by the Department of Housing and Urban Development (HUD) and funded through contributions from two government-sponsored enterprises, Fannie Mae and Freddie Mac, rather than through appropriations. Due to concerns about Fannie Mae's and Freddie Mac's financial position, their contributions to the HTF were suspended for several years before the program had ever received any funding. More recently, however, their contributions to the HTF have begun. The first funding was transferred to the HTF in early 2016.

In general, affordable housing trust funds provide dedicated, permanent sources of funding for affordable housing that do not require annual appropriations. Many states and localities across the United States have their own affordable housing trust funds, and for years affordable housing advocates had worked to get such a fund created on a national level. Opponents of a national affordable housing trust fund argued, among other things, that it would be duplicative of other affordable housing programs.

The Housing Trust Fund created by HERA provides funding for formula-based grants to states to use for affordable housing activities. By statute, most of the funding must be used for rental housing; states can use up to 10% of their grants for certain homeownership activities. Furthermore, all of the funds must benefit very low- or extremely low-income households, with at least 75% of the funding for rental housing being used exclusively for the benefit of extremely low-income households (defined as households with incomes that do not exceed 30% of area median income) or households with incomes no greater than the federal poverty line.

In the years since the HTF was established, supporters of the Housing Trust Fund have searched for additional sources of funding for the program, and have argued for the beginning of Fannie Mae's and Freddie Mac's contributions to the Housing Trust Fund as those entities returned to profitability. (The contributions began in 2015, with the first funds transferred to the HTF in 2016.) At the same time, policymakers who oppose the Housing Trust Fund have made efforts to repeal it or to prevent Fannie Mae and Freddie Mac from contributing to it while they remain in conservatorship. In recent Congresses, legislation has been introduced to fund the HTF through alternate sources, as well as to eliminate it entirely. The HTF has also been debated in the context of broader housing finance reform efforts, which are largely concerned with proposals for how to reform, eliminate, or replace Fannie Mae and Freddie Mac. However, no legislation to either fund the HTF through a different source or to eliminate it entirely has been enacted to date.

Contents

Introduction ... 1
Background ... 2
Funding for the Housing Trust Fund ... 3
Funding Mechanism ... 3
Suspension and Resumption of GSE Contributions to the HTF ... 3
Housing Trust Fund Formula and Program Requirements ... 5
Formula Allocation ... 5
States' Distribution of HTF Funds ... 6
Eligible Uses of Funding ... 7
Restrictions on Eligible Activities ... 8
Income Targeting ... 8
Affordability ... 9
Planning ... 10
Oversight ... 10
HTF Funding and State Allocations in 2016 ... 11
Current Issues ... 11
Arguments Made For and Against a National Housing Trust Fund ... 12
Status of Fannie Mae and Freddie Mac ... 13
Efforts to Provide Additional Funding to the HTF ... 14
Efforts to Eliminate or Limit Funding for the HTF ... 16

Tables

Table A-1. Previously Introduced Legislation to Create a National Affordable Housing Trust Fund ... 18
Table B-1. State HTF Allocations in 2016 ... 21

Appendixes

Appendix A. Previous Legislative Proposals to Establish a National Housing Trust Fund ... 17
Appendix B. State HTF Allocations in 2016 ... 21

Contacts

Author Information ... 23

Introduction

The Housing Trust Fund (HTF), administered by the Department of Housing and Urban Development (HUD), provides formula funds to states to use for certain affordable housing activities. The HTF was established by the Housing and Economic Recovery Act of 2008 (HERA, P.L. 110-289), which contained a wide range of housing-related provisions.[1] Some of the key features of the Housing Trust Fund include the following:

- It is intended to be primarily a **rental housing production** program. Most funds must be used to produce, preserve, rehabilitate, or operate rental housing, while a limited amount can be used to support homeownership for certain first-time homebuyers.
- A majority of funds must be used to benefit **extremely low-income households** (households with incomes at or below 30% of area median income), and all funds must be used for extremely low- or very low-income households (households with incomes at or below 50% of area median income).
- Rather than being funded through appropriations, the Housing Trust Fund (along with the Capital Magnet Fund, another new affordable housing fund established by HERA) is **funded through contributions from two government-sponsored enterprises (GSEs),** Fannie Mae and Freddie Mac.

After its creation in 2008, the HTF did not receive any funding for several years. In September 2008, there were concerns about Fannie Mae's and Freddie Mac's finances. They entered voluntary conservatorship overseen by their regulator, the Federal Housing Finance Agency (FHFA), and the Department of the Treasury agreed to provide financial support to the GSEs through the purchase of senior preferred stock. In November 2008 FHFA suspended Fannie Mae's and Freddie Mac's contributions to the affordable housing funds before any had been made. The contributions remained suspended for several years, leaving the HTF without a source of funding.

In subsequent years, Fannie Mae's and Freddie Mac's finances improved, and in December 2014 the Federal Housing Finance Agency directed them to begin setting aside contributions for the affordable housing funds during 2015.[2] These first contributions were required to be transferred to the Housing Trust Fund by February 29, 2016. The GSEs transferred $174 million to the Housing Trust Fund, and HUD announced formula allocations to states in May 2016.[3]

This report provides background on the Housing Trust Fund, including its funding mechanism and key programmatic features. It also provides a brief overview of current issues related to the Housing Trust Fund.

---

[1] For more information on the Housing and Economic Recovery Act, see archived CRS Report RL34623, *Housing and Economic Recovery Act of 2008*, coordinated by N. Eric Weiss.

[2] See letters dated December 11, 2014, that FHFA sent to Fannie Mae and Freddie Mac, available at http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx.

[3] U.S. Department of Housing and Urban Development, "HUD Allocates $174 Million through New Housing Trust Fund," press release, May 4, 2016, http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-068.

Background

Many states and localities across the nation have created housing trust funds, which provide dedicated sources of state or local funding for affordable housing activities. In general, affordable housing trust funds are permanent funding streams that are not reliant on annual appropriations and are dedicated to affordable housing activities for low-income households. For example, various types of real estate transaction fees are a common source of funding for state or local trust funds. According to the Center for Community Change, an advocacy group, nearly 700 state, city, and county housing trust funds have been established in 47 states across the nation.[4]

For several years prior to the establishment of the federal Housing Trust Fund in 2008, a coalition of low-income housing advocacy organizations led by the National Low Income Housing Coalition advocated for the establishment of an affordable housing trust fund at the national level to complement these state and local efforts. (**Appendix A** provides a brief overview of legislative proposals to create a national housing trust fund prior to the establishment of the Housing Trust Fund.) Advocates wanted a national housing trust fund to be capitalized with new resources devoted to affordable housing activities, rather than resources diverted from other federal affordable housing programs. A dedicated source of funding would allow the program to avoid the uncertainties of the annual appropriations process, and would mean that the program would not be in competition with other housing priorities for appropriated funds.

In July 2008, the Housing and Economic Recovery Act (HERA, P.L. 110-289) was enacted. HERA contained a wide variety of housing-related provisions. Among other things, it established the Housing Trust Fund, administered by the Department of Housing and Urban Development,[5] and the Capital Magnet Fund, administered by the Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund).[6] (See the nearby text box for a brief description of the Capital Magnet Fund and how it differs from the Housing Trust Fund.) Both funds were to be funded through annual contributions from Fannie Mae and Freddie Mac. However, because these contributions were suspended for several years, the Housing Trust Fund received its first funding in 2016. (The "Suspension and Resumption of GSE Contributions to the HTF" section of this report provides more detail on the suspension of the contributions.)

Capital Magnet Fund

Through the Capital Magnet Fund (CMF), Treasury's Community Development Financial Institutions (CDFI) Fund provides competitive funding to CDFIs or qualified nonprofit organizations that have the development or management of affordable housing as a principal purpose. The CMF is intended to leverage private capital and support for investment in housing primarily for low-, very low-, and extremely low-income households. While the Housing Trust Fund and the Capital Magnet Fund share a similar purpose—expanding the supply of affordable housing for lower-income households—there are several differences between the two programs. Among other things, these differences include the following:

- **How the funds are distributed**: the HTF provides funds to states via formula, while the CMF provides competitive funds to eligible CDFIs or nonprofits,

[4] See the Center for Community Change's website at http://housingtrustfundproject.org/housing-trust-funds/.

[5] HERA established the Housing Trust Fund by amending the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. The program is codified at 12 U.S.C. §4568. The GSE allocations to the Housing Trust Fund and the Capital Magnet Fund are codified at 12 U.S.C. §4567.

[6] For more information on the CDFI Fund, see CRS Report R42770, *Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues*, by Sean Lowry or the CDFI Fund website at https://www.cdfifund.gov/programs-training/Programs/cmf/Pages/default.aspx.

- **The income groups they target:** all HTF funds must benefit extremely low- or very low-income households, while the CMF must *primarily* benefit households that are low-, very low-, or extremely low-income.
- **The degree to which they focus on rental or homeownership housing**: at least 80% of HTF funds must be used for rental housing; CMF funds can be used for rental or owner-occupied housing, with no specific amount required to be spent on one or the other.

For more information on the Capital Magnet Fund, see the CDFI Fund website at https://www.cdfifund.gov/programs-training/Programs/cmf/Pages/default.aspx.

Funding for the Housing Trust Fund

Funding Mechanism

Both the Housing Trust Fund and the Capital Magnet Fund are funded through contributions from Fannie Mae and Freddie Mac rather than through appropriations. Fannie Mae and Freddie Mac are government-sponsored enterprises (GSEs) that were chartered by Congress to provide liquidity in the mortgage market. They do not originate mortgages, but rather purchase mortgages that meet certain standards, package them into mortgage-backed securities, and provide a guarantee that investors in the securities will receive timely payment of principal and interest even if borrowers become delinquent on the underlying mortgages.[7]

Each year, HERA requires Fannie Mae and Freddie Mac to set aside 4.2 basis points (0.042%) for each dollar of the unpaid principal balance of their new business purchases (basically, 0.042% of the dollar amount of mortgages that they purchase). Of the total amount set aside, the first 25% is to be diverted to pay for ongoing costs of the Hope for Homeowners program, a temporary foreclosure prevention program that ended in 2011.[8] Of the amount remaining, 65% is provided to HUD for the Housing Trust Fund, and 35% is provided to Treasury for the Capital Magnet Fund. Fannie Mae and Freddie Mac are prohibited from passing the costs of the contributions on to mortgage lenders.[9]

HERA also allows other funds to be "appropriated, transferred, or credited" to the Housing Trust Fund. To date, no other source of funding has been provided to the HTF.

Suspension and Resumption of GSE Contributions to the HTF

HERA requires the Federal Housing Finance Agency (FHFA), Fannie Mae's and Freddie Mac's regulator, to suspend the GSEs' contributions to the affordable housing funds if it finds that the contributions (1) are contributing or would contribute to a GSE's financial instability, (2) are causing or would cause a GSE to be classified as undercapitalized, or (3) are preventing or would prevent a GSE from successfully completing a capital restoration plan.[10] In September 2008, not

[7] For more information on the role the GSEs play in the mortgage market, see CRS Report R42995, *An Overview of the Housing Finance System in the United States*, by Sean M. Hoskins, Katie Jones, and N. Eric Weiss. For more background on the GSEs' history and current status, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

[8] 12 U.S.C. §4567(e). For more information on the expired Hope for Homeowners program, see the Appendix of CRS Report R40210, *Preserving Homeownership: Foreclosure Prevention Initiatives*, by Katie Jones.

[9] Federal Housing Finance Agency, "Housing Trust Fund," 79 *Federal Register* 74595-74597, December 16, 2014.

[10] 12 U.S.C. §4567(b)

long after HERA was enacted, there were concerns about the financial status of Fannie Mae and Freddie Mac. Fannie Mae and Freddie Mac entered into voluntary conservatorship and FHFA took over their management. The Department of the Treasury agreed to provide financial support to the GSEs through the purchase of senior preferred stock.[11]

In November 2008, FHFA informed Fannie Mae and Freddie Mac that they should suspend their contributions to the affordable housing funds until further notice.[12] Neither GSE had started making contributions at the time that the contributions were suspended, and the suspension of the contributions left the Housing Trust Fund without a source of funding for several years.

In December 2014, FHFA directed Fannie Mae and Freddie Mac to begin setting aside contributions for the Housing Trust Fund and the Capital Magnet Fund.[13] In lifting the suspension, FHFA noted Fannie Mae's and Freddie Mac's recent profitability. The GSEs were directed to set aside funds beginning in calendar year 2015, with the first funds required to be transferred to the affordable housing funds within 60 days after the end of 2015.

Affordable housing advocates and some lawmakers praised the decision to direct Fannie Mae and Freddie Mac to begin contributions to the housing funds, noting the need for additional affordable housing in many communities.[14] However, others criticized the decision, based on both overall opposition to the HTF and concerns about requiring the GSEs to contribute to the affordable housing funds while they are still in conservatorship and subject to agreements that allow them to draw on Treasury financial support if needed.[15]

While reinstating the contributions, FHFA stated that Fannie Mae and Freddie Mac will not be required to make contributions in any year during which they draw funds under the agreements they have in place with Treasury, or if the contributions would cause them to make such a draw.[16] FHFA continues to have the authority to suspend the contributions in the future if it determines that circumstances require it.

---

[11] For more information on the financial status of the GSEs, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

[12] United States Securities and Exchange Commission filing, Form 8-K, Federal National Mortgage Association, November 18, 2008, available at http://www.sec.gov/Archives/edgar/data/310522/000129993308005442/htm_30041.htm, and United States Securities and Exchange Commission Filing, Form 10-Q, Federal Home Loan Mortgage Corporation, November 14, 2008, p. 66, available at http://ir.10kwizard.com/files.php?source=1372.

[13] See letters dated December 11, 2014, that FHFA sent to Fannie Mae and Freddie Mac, available at http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx. The letters direct the GSEs to transfer their contributions to the Housing Trust Fund and the Capital Magnet Fund within 60 days of the end of their fiscal year. The GSEs' fiscal year is the calendar year, so the contributions are to be transferred within 60 days of the end of each calendar year.

[14] For example, see the statement of then-Chairman of the Senate Banking Committee Tim Johnson at http://www.banking.senate.gov/public/index.cfm?FuseAction=Newsroom.PressReleases&ContentRecord_id=487d95bb-d627-24da-4ac7-72bca1f2a6ee.

[15] For example, see the statement of House Financial Services Committee Chairman Jeb Hensarling in House Financial Services Committee, "FHFA Director Delivers Lump of Coal to Every Taxpayer," press release, December 11, 2014, http://financialservices.house.gov/news/documentsingle.aspx?DocumentID=398566.

[16] See the December 11, 2014, letters that FHFA sent to Fannie Mae and Freddie Mac directing them to begin making contributions to the Housing Trust Fund at http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx. When Fannie Mae and Freddie Mac were placed into conservatorship in 2008, Treasury also agreed to provide financial support to Fannie Mae and Freddie Mac through purchases of senior preferred stock. Neither Fannie nor Freddie has required support from Treasury since early 2012, but under the terms of the agreements, they can receive additional funds from Treasury if necessary. For more information on these agreements, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

Housing Trust Fund Formula and Program Requirements

HUD published a proposed rule governing the allocation formula for the Housing Trust Fund (HTF) on December 4, 2009[17] and a proposed rule governing program requirements on October 29, 2010.[18] On January 30, 2015, HUD published an interim rule governing both the HTF formula and program requirements.[19] HUD indicated that it would seek public comment on the interim rule after the HTF received funding and grantees had experience administering the program.[20]

This section describes the formula for the Housing Trust Fund and key program requirements based on the statute and HUD's interim rule.

Formula Allocation

On an annual basis, the GSE contributions designated for the Housing Trust Fund are transferred to HUD, which administers the program. Through the HTF, HUD provides formula grants to the 50 states, the District of Columbia, and Puerto Rico. Four insular areas—the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa—are also eligible for funding.

HTF funds are allocated among the 50 states, the District of Columbia, and Puerto Rico by formula. (Funding for the four insular areas is allocated by a different formula.[21]) By statute, the formula for allocating funds to states is based on the following factors:

- the ratio of the shortage of standard rental units affordable and available to **extremely low-income** renter households in a given state to the aggregate shortage of such rental units in all states (this factor is given "priority emphasis");
- the ratio of the shortage of standard rental units affordable and available to **very low-income** renter households in a given state to the aggregate shortage of such rental units in all states;
- the ratio of **extremely low-income** renter households living with incomplete kitchen or plumbing facilities, more than one person per room, or spending more than 50% of income on housing costs in a given state to the aggregate number of such households in all states; and

[17] Department of Housing and Urban Development, "Housing Trust Fund; Allocation Formula; Proposed Rule," 74 *Federal Register* 63938-63942, December 4, 2009.

[18] Department of Housing and Urban Development, "Housing Trust Fund; Proposed Rule," 75 *Federal Register* 66978-67009, October 29, 2010. This proposed rule would have created a new Subpart N to Part 92 of Title 24 of the Code of Federal Regulations. Part 92 of Title 24 contains the regulations governing HUD's Home Investment Partnerships Program.

[19] U.S. Department of Housing and Urban Development, "Housing Trust Fund; Interim Rule," 80 *Federal Register* 5200-5244, January 30, 2015. The interim rule creates a new Part 93 to Title 24 of the Code of Federal Regulations, rather than putting the regulations in a new Subpart N of Part 92 as proposed in the proposed program rule.

[20] 80 *Federal Register* 5200

[21] 24 C.F.R. §93.50(c) provides that funding for the four insular areas will be based on the ratio of renter households in each insular area to the total number of renter households in the 50 states, DC, Puerto Rico, and the insular areas.

- the ratio of **very low-income** renter households spending more than 50% of income on rent in a given state to the aggregate number of such households in all states.

The sum of these factors is multiplied by the relative cost of construction in the state (compared to the national cost of construction) and applied to the overall amount of funding available to arrive at a grant amount.

While the formula factors are specified by statute, HUD has the discretion to choose how to weight each factor (with the additional limitation that the first factor is to be given "priority emphasis"). In its interim rule, HUD chose to weight the formula factors in a way that prioritizes the need for housing for extremely low-income households. The highest weight is given to the first formula factor (50%), followed by the third formula factor (25%). The second and fourth factors are given the lowest weights (12.5% each).[22]

The statute specifies that the 50 states and DC are to receive a minimum annual grant of $3 million.[23] In its interim rule, HUD stated that, in the event that HTF funding in a given year is not sufficient to award each state and DC a minimum grant amount of $3 million, HUD will publish an alternative method for allocating the funds in the Federal Register with an opportunity for public comment.[24]

States' Distribution of HTF Funds

HUD awards grants from the Housing Trust Fund to states based on the formula described. States must designate an entity to administer the funds, such as a housing finance agency, housing and community development agency, or another "qualified instrumentality of the state."[25] The state-designated entity can administer the grant itself, or it can allow subgrantees to administer some or all of the funds. Subgrantees can be state agencies, or they can be units of local government that receive other HUD block grant funds and have submitted Consolidated Plans to HUD.[26]

Grantees (the state-designated entities that administer the funds) and any subgrantees must submit plans to HUD that describe how they will distribute HTF funds, including both geographic priorities and any priority housing needs they plan to address with the funds. These plans are discussed in more detail in the "Planning" section of this report.

Grantees and subgrantees ultimately provide funds to recipients, which are for-profit or nonprofit entities that receive Housing Trust Fund funds as owners or developers of affordable housing. Recipients of Housing Trust Fund grant amounts must have relevant experience. More specifically, an organization receiving funding for a rental housing project must have experience owning, constructing, rehabilitating, managing, or operating affordable multifamily rental projects. An organization receiving funding for homeownership activities is required to have experience in designing, constructing, rehabilitating, or marketing affordable homeownership housing, or in providing assistance with down payments, closing costs, or interest rate subsidies.

---

[22] 80 *Federal Register* 5206 and 24 C.F.R. §93.50(d)(2)(ii)

[23] 12 U.S.C. §4568(c)(4)(C)

[24] 80 *Federal Register* 5207 and 24 C.F.R. §93.52(b)

[25] The definition of a state-designated entity is at 24 C.F.R. §93.2. A list of the entities that states have designated to administer their Housing Trust Fund programs is available at https://www.hudexchange.info/programs/htf/grantees/.

[26] HUD requires states and local jurisdictions to submit a Consolidated Plan in order to receive funds from its block grant programs, such as the Community Development Block Grant (CDBG) program and the HOME Investment Partnerships Program. The Consolidated Plan describes a jurisdiction's affordable housing needs and explains how HUD funds and other resources will help address those needs.

Recipients also have to demonstrate general financial experience and expertise and familiarity with the requirements of any related federal, state, or local housing programs that will be used in conjunction with grants from the Housing Trust Fund.

Eligible Uses of Funding

States must use most of their grant amounts from the Housing Trust Fund to support rental housing, although they can use a portion of their funding to assist certain first-time homebuyers. Similarly, most of the funding is required to be used to benefit extremely low-income families or families with incomes below the poverty line, but some funding can be used to benefit very low-income families as well. Funds can be used to provide a variety of different types of assistance, including grants, equity investments, and interest-bearing or non-interest bearing loans.[27]

Housing assisted with HTF funds must meet certain property standards that address various requirements related to housing quality, accessibility, and energy efficiency, among other things. Different standards apply depending on whether HTF funds are used to construct, rehabilitate, or acquire housing, and, in some cases, whether the funds are used for rental or owner-occupied housing.[28]

Rental Housing

Grants from the Housing Trust Fund can be used for the production, preservation, rehabilitation, or operation of rental housing. By law, at least 80% of HTF funds must be used for rental housing activities. (Up to 10% can be used for certain homebuyer activities, and up to 10% can be used for administrative purposes.)

HUD's interim rule specifies that a state grantee may use no more than one-third of its annual grant for operating assistance.[29] (Operating assistance refers to using funds for the ongoing costs of operating rental housing, such as paying for utilities, maintenance, insurance, or other similar expenses.) Some housing advocates have argued that more funds should be allowed to be used for operating assistance. However, HUD has expressed concern that allowing more funds to be used for such purposes could eventually result in most HTF funds being used for operating assistance rather than being used for rental housing production.[30] Grantees can choose whether they will allow each recipient to use up to one-third of its funding for operating costs, or whether they will allow some recipients to use more and others to use less so that no more than one-third of the total grant is used for operating assistance.

Owner-Occupied Housing

Up to 10% of a state's grant from the Housing Trust Fund may be used for the production, preservation, and rehabilitation of owner-occupied housing or for related homeownership costs such as down payment assistance, closing cost assistance, and interest-rate buy-downs. The home buyer must use the home as a principal residence and be a first-time home buyer, defined as not having owned a home in the prior three years. Home buyers must also complete a pre-purchase financial counseling requirement.

[27] 24 C.F.R. §93.200

[28] 24 C.F.R. §93.301

[29] 24 C.F.R. §93.200

[30] See 80 *Federal Register* 5210

Any owner-occupied housing assisted with HTF funds must be "modest" housing, defined as having a purchase price that is no higher than 95% of the median purchase price in the area.[31] The grantee must adopt either resale or recapture provisions for owner-occupied housing assisted through the HTF. Resale provisions specify that, if the HTF-assisted household no longer occupies the home as a principal residence during a specified affordability period, then the house will be offered for sale to another income-eligible household. Recapture provisions specify that, if the HTF-assisted household no longer occupies the home as a principal residence during a specified affordability period, the grantee is able to recapture some or all of the HTF funds that were provided.[32]

Restrictions on Eligible Activities

By statute, money from the Housing Trust Fund cannot be used for political activities, advocacy, lobbying, counseling services,[33] travel expenses, or preparing or providing advice on tax returns.[34] HUD's interim rule specifies additional activities that are ineligible uses of HTF funds.[35]

HUD can set a limit of up to 10% of a state or state-designated entity's Housing Trust Fund grant amount that can be used for the cost of administering the programs funded by the grant; HUD has set this limit at 10%. Using funds for other administrative costs of the grantee or funding recipient is prohibited.

Income Targeting

All HTF funds must benefit households that qualify as extremely low-income (ELI) or very low-income (VLI). ELI households are defined as households with incomes that do not exceed 30% of area median income, and VLI households are defined as having incomes no higher than 50% of area median income.[36] HUD will publish the dollar amounts of the income limits by area.[37]

By statute, of the funds that are used for rental housing (at least 80% of total HTF funds), at least 75% must be used to benefit ELI households or households with incomes at or below the poverty line. In general, the remaining funds may be used to benefit VLI households.

However, in its interim rule, HUD requires that *all* HTF funds must benefit ELI households or households with incomes at or below the poverty line in years when the total amount provided to the HTF is less than $1 billion. In years when more than $1 billion is provided to the HTF, HUD

[31] 24 C.F.R. §93.305. The limits for 2016 by area are available at https://www.hudexchange.info/resource/4982/housing-trust-fund-homeownership-value-limits/.

[32] 24 C.F.R. §93.305

[33] The costs of housing counseling for HTF-assisted households can be considered an eligible administrative expense under 24 C.F.R. §93.202(c).

[34] 12 U.S.C. §4568(c)(10)(D)

[35] 24 C.F.R. §93.204

[36] Several years after the passage of the law that established the Housing Trust Fund, the Consolidated Appropriations Act, 2014 (P.L. 113-76) amended the definition of "extremely low-income" for the purposes of certain other federal housing assistance programs to mean households with incomes that do not exceed the higher of (1) the federal poverty line or (2) 30% of area median income. The HTF statute defines "extremely low-income" as households with incomes at or below 30% of area median income, but requires that a certain amount of funds be used for the benefit of ELI households or households with incomes below the federal poverty line.

[37] The income limits for the HTF will be published separately from the income limits for many other HUD programs that are available at https://www.huduser.gov/portal/datasets/il.html.

specifies that at least 75% of a state's grant amount must be used to benefit ELI households or households with incomes at or below the poverty line.[38]

Affordability

HTF-assisted housing must meet a number of requirements to be considered affordable.[39] Among other things, these requirements include maximum rents that can be charged for HTF-assisted rental units and affordability periods for all HTF-assisted units.

Maximum Rent

HUD's interim rule specifies a maximum rent (including utilities) for HTF-assisted rental housing units. For ELI households, rents in HTF-assisted units cannot exceed the greater of (1) 30% of the income of a household that is making 30% of area median income, or (2) 30% of the federal poverty line. For VLI households, rents cannot exceed 30% of the income of a household that is making 50% of area median income.[40] HUD will annually publish the dollar amounts of rent limits by area.

Some housing advocates have argued that rents in HTF-assisted units should not be allowed to exceed 30% of tenants' *actual* incomes, rather than 30% of a specified percentage of area median income.[41] These advocates point out that, for ELI households who are earning significantly less than 30% of area median income (or VLI households earning significantly less than 50% of AMI), rents that are set at 30% of 30% of AMI (or 30% of 50% of AMI) may be unaffordable and impose a hardship on tenants. Several other federal affordable housing programs, such as the public housing and Section 8 programs, generally cap rents at 30% of a tenant's income. However, HUD notes that there is no separate source of appropriated funds for operating assistance for HTF units to help make up the difference between tenants' rents and the costs of operating the housing. Although HTF funds can be used for operating assistance, that amount is capped, and funds may not be available for operating assistance if there is no funding for the HTF in a given year. Therefore, HUD believes that fixed rents (rather than variable rents based on tenants' actual incomes) are necessary for the purposes of underwriting and financing rental developments using HTF funds.[42]

Affordability Periods

HTF-assisted housing must remain affordable for a specified period of time. HTF-assisted rental housing must remain affordable for 30 years. (The grantee can choose to impose a longer affordability period.[43]) HTF-assisted owner-occupied housing must remain affordable for 10, 20,

[38] 24 C.F.R. §93.250

[39] See 24 C.F.R. §93.302 and §93.304

[40] 24 C.F.R. §93.302(b). One common definition of housing affordability considers housing to be affordable if a household is paying no more than 30% of its income on rent. As noted previously, ELI households have incomes at or below 30% of area median income, and VLI households have incomes at or below 50% of area median income. The maximum rents for the HTF are based on 30% of the incomes of households at the highest end of these ELI and VLI income ranges.

[41] For example, see National Low Income Housing Coalition, "NLIHC Comments on HUD's Proposed NHTF Rule," press release, January 7, 2011, http://nlihc.org/article/nlihc-comments-hud-s-proposed-nhtf-rule.

[42] 80 *Federal Register* 5215

[43] 24 C.F.R. §93.302(d)

or 30 years, depending on whether resale or recapture provisions are used and the amount of HTF assistance provided to the unit.[44]

Planning

HERA requires states or the state-designated entities that administer grants from the Housing Trust Fund to develop allocation plans describing how the grant money will be distributed. The allocation plan is part of the Consolidated Plan and Annual Action Plan that grantees must submit in order to receive certain other HUD block grant funds (such as HOME and CDBG).[45] Grantees' allocation plans must describe the state's priority housing needs and how it plans to distribute HTF funds, and they must include performance goals. The states and state-designated entities are to make their allocation plans available for public comment and consider any public comments they receive.

If the grantee will be awarding funds to recipients directly, it must describe how the funds will be geographically distributed throughout the state, as well as describe other factors that it will prioritize in awarding funds to projects and set certain program requirements. If the state plans to prioritize any specific segment of the extremely low- and very low-income population, or allow property owners to prioritize a specific population, such a preference must be described in the allocation plan.

If the grantee intends to provide funds to subgrantees (i.e., local governments)—it must indicate this in its allocation plan. Subgrantees that receive HTF funds from the state must submit their own allocation plans that describe HTF requirements, priority factors for funding, and any plans to prioritize a specific segment of the extremely low-income or very low-income population, among other things. The subgrantee's allocation plan must be consistent with the state's allocation plan.

Oversight

Both grantees and HUD have certain oversight responsibilities for HTF funds.

The states or state-designated entities that receive grants from the Housing Trust Fund are responsible for overseeing the proper use of the funds and obtaining reimbursement from recipients for improperly used funds. Future HTF grants will be reduced by the amount of any improperly used HTF funds – that is, funds that are used in projects that do not meet HTF requirements or are not completed—unless the improperly used funds are repaid to the grantee by the recipient. Grantees must conduct inspections of HTF-assisted properties at the time of project completion, and, in the case of rental housing, must conduct periodic inspections thereafter. Grantees are also subject to recordkeeping and other requirements.

Grantees are responsible for monitoring the compliance of subgrantees. Grantees and subgrantees are required to submit annual performance reports to HUD describing how HTF funds were used and the extent to which they complied with the allocation plans.[46]

HUD must review grantees' performance on at least an annual basis. If grantees are not complying with HTF requirements, and fail to come into compliance, HUD can take certain

[44] 24 C.F.R. §93.304(e) and §93.305(b)

[45] For more information on the Consolidated Plan and Annual Action Plan, see HUD's website at https://www.hudexchange.info/programs/consolidated-plan/.

[46] 24 C.F.R. §91.520

actions, such as requiring the grantee to submit plans detailing how it will correct the issue.[47] In cases of substantial noncompliance, HUD can take additional actions, including preventing the grantee from withdrawing HTF funding, restricting its activities, or terminating its HTF assistance entirely. HUD must comply with requirements related to providing notice and an opportunity for a hearing before taking these actions.[48]

Grantees must commit HTF funds within two years and spend HTF funds within five years.[49] Any funds that are not committed or spent within the time provided will be recaptured by HUD and reallocated.

HTF Funding and State Allocations in 2016

The GSEs first set aside contributions for the HTF during 2015, and these first funds were transferred to the Housing Trust Fund in early 2016. The total amount transferred to the HTF was $174 million.[50] This amount reflects a required sequestration, or reduction, of mandatory spending.[51]

In May 2016, HUD announced each state's formula allocation from this first round of funding. **Appendix B** shows each state's formula allocation. The majority of states (plus DC) received the minimum allocation of $3 million. (The minimum allocation applies to the 50 states and DC, but not Puerto Rico and the insular areas, which received smaller amounts of funding.) Fifteen states received allocations higher than the minimum; of these fifteen states, five states (California, New York, Texas, Florida, and Illinois) have allocations above $4 million. California's allocation is the largest, at $10 million.

Current Issues

This section discusses current issues related to the Housing Trust Fund, namely, arguments that are commonly made for and against the Housing Trust Fund; the current status of Fannie Mae and Freddie Mac and its potential implications for the Housing Trust Fund; legislative proposals that would provide additional funding to the Housing Trust Fund; and legislative proposals that would limit funding for the Housing Trust Fund or eliminate the program entirely.

---

[47] 24 C.F.R. §93.452

[48] 24 C.F.R. §93.453

[49] 24 C.F.R. §93.400

[50] U.S. Department of Housing and Urban Development, "HUD Makes $174 Million Available through New Housing Trust Fund," press release, April 4, 2016, http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-042.

[51] According to SEC filings, the GSEs set aside a total of $382 million during 2015, of which nearly $187 million was for the Housing Trust Fund. However, funding for the Housing Trust Fund is mandatory spending that is subject to a sequestration of 6.9%, which reduced the amount available for the Housing Trust Fund to $174 million. See *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2017*, February 9, 2016, https://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/sequestration/jc_sequestration_report_2017_house.pdf. For information on the amounts each GSE set aside during 2015, see p. 197 of Fannie Mae's 2015 Form 10-K at http://fanniemae.com/resources/file/ir/pdf/quarterly-annual-results/2015/10k_2015.pdf and p. 166 of Freddie Mac's 2015 Form 10-K at http://www.freddiemac.com/investors/sec_filings/index.html.

Arguments Made For and Against a National Housing Trust Fund

The idea of a national affordable housing trust fund has been controversial. Supporters have advocated for such a fund for years, arguing that it is needed to address a shortage of affordable housing for extremely low-income households. Opponents, however, have raised several concerns about such a program's funding and potential uses.

What Arguments Are Made in Support of a National Housing Trust Fund?

Supporters of a national affordable housing trust fund argue that such a fund is needed to help address a shortage of rental housing that is affordable and available to those with the lowest incomes.[52] According to HUD, in 2013, for every 100 extremely low-income renters there were only 34 physically adequate housing units that were both affordable and available to this population.[53] In light of this shortage, supporters of a national housing trust fund argue that there is a need for funds specifically targeted to the production of rental housing affordable to households with the lowest incomes—particularly those with incomes at or below 30% of the area median income.[54] Most federal affordable housing programs are targeted towards making existing housing more affordable to low-income households, such as by providing rental assistance, rather than producing or rehabilitating additional housing units that will be affordable to low-income households.[55] Furthermore, current funding for federal housing assistance programs is not sufficient to serve all eligible households. For example, it is estimated that federal rental assistance programs serve approximately a quarter of low-income rental households who may be eligible for assistance.[56]

The federal housing programs that do support the production of housing for low-income households may not always reach those who are extremely low-income, or the production of rental housing may compete with other eligible uses of the funds. For example, the largest federal rental housing production program, Treasury's Low-Income Housing Tax Credit (LIHTC), helps develop rental units for households with incomes at or below 50% or 60% of area median income.[57] Similarly, HUD's HOME Investment Partnerships Program (HOME program), which provides funds to states and local governments to use for a variety of housing activities, must be used to benefit households with incomes at or below 80% of area median income or, in the case of most rental housing, at or below 60% of area median income.[58] Furthermore, while HOME

[52] For example, see the written testimony of Sheila Crowley, President of the National Low Income Housing Coalition, at a May 25, 2011, hearing before the Subcommittee on Capital Markets and Government Sponsored Enterprises of the House Financial Services Committee, http://financialservices.house.gov/uploadedfiles/052511crowley.pdf.

[53] U.S. Department of Housing and Urban Development, *Worst Case Housing Needs 2015 Report to Congress*, p. 15, https://www.huduser.gov/portal//Publications/pdf/WorstCaseNeeds_2015.pdf. Units are considered to be "available" to households at a certain income level if they are currently occupied by a household with an income at or below that level or if they are vacant. Units that are affordable to lower-income households, but currently occupied by higher-income households, are not considered to be available to lower-income households.

[54] For example, see the National Low Income Housing Coalition, "NHTF a Topic in Senate, House Proceedings," March 18, 2011, http://nlihc.org/article/nhtf-topic-senate-house-proceedings.

[55] See CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy*, by Maggie McCarty, Libby Perl, and Katie Jones for a discussion of the evolution of federal housing programs and descriptions of current programs.

[56] Center on Budget and Policy Priorities, *Policy Basics: Federal Rental Assistance*, updated December 21, 2015, http://www.cbpp.org/research/housing/policy-basics-federal-rental-assistance.

[57] For more information on the LIHTC, see CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley and Jeffrey M. Stupak.

[58] For more information on the HOME Investment Partnerships Program, see CRS Report R40118, *An Overview of the*

funds can be used for rental housing production, they can also be used for a range of other purposes, including activities such as homebuyer assistance, rehabilitating owner-occupied homes, or rental assistance. This means that rental housing production may compete with other local housing priorities for HOME funds.

What Arguments Are Made Against a National Housing Trust Fund?

Opponents have voiced several concerns about the Housing Trust Fund. First, critics note that the federal government already provides funding for affordable housing through other programs, including flexible block grant programs such as the HOME program. They argue that a national affordable housing trust fund is duplicative of other programs since the activities that it funds are also eligible uses of other sources of federal funds.[59]

Additionally, some have raised concerns about funding being provided outside of the appropriations process. They argue that any funding for affordable rental housing activities should go through the normal appropriations process, thereby giving Congress the oversight opportunities that the appropriations process provides.[60] Some have also expressed concerns that, although HERA prohibits funds from being used for purposes such as lobbying, advocacy, and political activities, there may not be sufficient safeguards to ensure that funds from the Housing Trust Fund are not used for such purposes or otherwise misused.[61]

Finally, since it was announced that Fannie Mae and Freddie Mac would be beginning their contributions to the Housing Trust Fund and the Capital Magnet Fund, some have criticized the decision to require Fannie Mae and Freddie Mac to make contributions to the housing funds while they remain in conservatorship and subject to agreements with Treasury. They also argue that Fannie Mae and Freddie Mac should not make contributions to the affordable housing funds when they have not repaid Treasury for financial support they received in past years.[62] (The GSEs have paid dividends to Treasury in an amount that exceeds what they received in support; however, dividend payments are not considered repayment.[63])

Status of Fannie Mae and Freddie Mac

Fannie Mae and Freddie Mac remain in government conservatorship. They also continue to have agreements with Treasury that would allow the GSEs to draw additional funds from Treasury if

HOME Investment Partnerships Program, by Katie Jones.

[59] For example, see American Action Forum, *The Housing Trust Fund and Capital Magnet Fund: A Primer*, by Andy Winkler, February 24, 2015.

[60] Ibid.

[61] For example, see a July 2011 press release from the office of Representative Ed Royce describing committee passage of a bill he had introduced to eliminate the Housing Trust Fund during the 111th Congress at http://royce.house.gov/news/documentsingle.aspx?DocumentID=251288.

[62] For example, see House Financial Services Committee, "FHFA Director Delivers Lump of Coal to Every Taxpayer," press release, December 11, 2014, http://financialservices.house.gov/news/documentsingle.aspx?DocumentID=398566, with a statement from House Financial Services Committee Chairman Jeb Hensarling.

[63] According to the terms of the preferred stock purchase agreements with Treasury, as amended, Fannie Mae and Freddie Mac pay dividends to Treasury equal to the amount of any profits they earn in a quarter. These dividend payments compensate Treasury for the risk it incurred in providing support for Fannie Mae and Freddie Mac, but do not count as repayment of the amount Fannie Mae and Freddie Mac received. For more information on the terms of the agreements with Treasury, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

needed.[64] As part of these agreements, the amount of a capital buffer that Fannie Mae and Freddie Mac are permitted to hold decreases each year before reaching zero in 2018. If Fannie Mae and Freddie Mac are not permitted to hold capital, the possibility that one or both may need to draw funds from Treasury at some point increases. If Fannie Mae or Freddie Mac draws funds from Treasury in a given quarter, its contributions to the HTF would be suspended for that year.[65] Therefore, the quarterly financial performance of the GSEs has implications for the Housing Trust Fund.

Additionally, over the past several years, Congress and the Administration have considered options for reforming the housing finance system in general, and Fannie Mae and Freddie Mac in particular, to reduce the federal government's exposure to future losses related to mortgages. These discussions have included the question of Fannie Mae's and Freddie Mac's support for affordable housing generally, and the Housing Trust Fund specifically.

While there is broad agreement on the need for housing finance reform, there is no consensus on how the system should be reformed. In the 113th Congress, different housing finance reform bills were reported out of the committee in the House and Senate, respectively:[66]

- In the House, the Protecting American Taxpayers and Homeowners (PATH) Act (H.R. 2767) would have wound down Fannie Mae and Freddie Mac over several years and replaced them with a new entity that would have facilitated mortgage securitization but would not have provided any kind of government guarantee. The PATH Act would have abolished the Housing Trust Fund.
- In the Senate, the Housing Finance Reform and Taxpayer Protection Act of 2013 (S. 1217, commonly referred to as the Johnson-Crapo bill) would have also wound down Fannie Mae and Freddie Mac over several years and replaced them with a new entity, which would have provided federal reinsurance on certain eligible mortgage-backed securities. The bill would have retained the Housing Trust Fund and directed the new entity to make contributions to the Housing Trust Fund through a fee on covered mortgage-backed securities.

In the 114th Congress, no comprehensive housing finance reform legislation has been considered by committee. However, to the extent that Congress considers Fannie Mae's and Freddie Mac's status in the future, the Housing Trust Fund is likely to be part of the debate.

Efforts to Provide Additional Funding to the HTF

HERA allows other funds to be "appropriated, transferred, or credited" to the Housing Trust Fund. In the years following the suspension of contributions to the Housing Trust Fund, affordable housing advocates searched for both a new dedicated source of permanent funding for the Housing Trust Fund and for a source of funding to initially capitalize the Housing Trust Fund. Although FHFA directed the GSEs to begin their contributions to the Housing Trust Fund and the

---

[64] For more information on the financial status of Fannie Mae and Freddie Mac, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

[65] See the December 11, 2014, letters that FHFA sent to Fannie Mae and Freddie Mac directing them to begin making contributions to the Housing Trust Fund at http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx.

[66] For more information on these bills, see archived CRS Report R43219, *Selected Legislative Proposals to Reform the Housing Finance System*, by Sean M. Hoskins, N. Eric Weiss, and Katie Jones.

Capital Magnet Fund in December 2014, housing advocates continue to search for additional sources of funding for the Housing Trust Fund.

A range of other potential sources of either permanent or initial funding have been suggested by advocates.[67] In recent years, some have proposed generating funding for the HTF through changes to the mortgage interest deduction that would presumably result in lower tax expenditures associated with the deduction.[68]

In the 114th Congress, multiple bills have been introduced to provide additional funding to the Housing Trust Fund. The Common Sense Housing Investment Act of 2015 (H.R. 1662) would make changes to the mortgage interest deduction and direct some of the savings projected to result from such changes to the Housing Trust Fund and some to other housing programs. Versions of the Common Sense Housing Investment Act were also introduced in the 113th Congress (H.R. 1213) and the 112th Congress (H.R. 6677). The Pathways out of Poverty Act of 2015 (H.R. 2721) would also provide funding to the Housing Trust Fund from savings generated by changes to the mortgage interest deduction. A version of that bill was also introduced in the 113th Congress.

Another bill in the 114th Congress, the Ending Homelessness Act of 2016 (H.R. 4888), would appropriate $1 billion per year in mandatory funding out of general Treasury funds for the Housing Trust Fund, as well as another $50 million for rental assistance for Housing Trust Fund units. In previous Congresses, other bills would also have provided funds to the Housing Trust Fund from the general fund of the Treasury.[69] For many years, the President's budget requests requested $1 billion in mandatory funding from general Treasury funds be provided to the Housing Trust Fund as well.[70]

Other bills in previous Congresses proposed providing funds to the Housing Trust Fund from funds related to the Troubled Asset Relief Program (TARP). TARP was a temporary program created in 2008 to address the financial crisis and provided Treasury with temporary authority to purchase or insure troubled assets owned by financial institutions.[71] Some bills would have used TARP funds directly to fund the Housing Trust Fund, while other bills would have used funds from dividends paid to Treasury or the sale of warrants under TARP.[72]

---

[67] For example, see National Low-Income Housing Coalition, "National Housing Trust Fund Current Avenues for Funding," updated September 2013, http://nlihc.org/sites/default/files/NHTF_Funding.pdf.

[68] See the website for the United for Homes campaign, led by the National Low Income Housing Coalition, at http://nlihc.org/unitedforhomes. For an overview of the mortgage interest deduction and certain options for changing the deduction, see CRS Report R41918, *The Mortgage Interest and Property Tax Deductions: Brief Overview with Revenue Estimates*, by Mark P. Keightley.

[69] In the 111th Congress, the House-passed versions of H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010, and the Jobs for Main Street Act of 2009 would each have provided $1.065 billion for the Housing Trust Fund. Of this amount, $1 billion would have been used for formula grants to states, and the remaining $65 million would have been used for project-based rental assistance associated with those grants. The versions of the bills enacted into law did not include any provisions related to the Housing Trust Fund. (The version of H.R. 4213 that passed the House on May 28, 2010 was a House amendment to the Senate amendment to H.R. 4213.)

[70] For example, see p. 559 of the FY2014 Budget Appendix requesting a $1 billion mandatory appropriation for the Housing Trust Fund at https://www.gpo.gov/fdsys/pkg/BUDGET-2014-APP/pdf/BUDGET-2014-APP-1-12.pdf.

[71] For more information on TARP, see CRS Report R41427, *Troubled Asset Relief Program (TARP): Implementation and Status*, by Baird Webel.

[72] In the 112th Congress, two bills called the Preserving Homes and Communities Act (H.R. 1477 and S. 489) would have provided $1 billion to the Housing Trust Fund from the sale of warrants under TARP. In the 111th Congress, H.R. 3068 would have provided $1 billion for the Housing Trust Fund from dividends paid to the Treasury by financial institutions that received funds under TARP. H.R. 3766 would have provided $1 billion for the Housing Trust Fund by

Other than the original funding mechanism in HERA, no funding for the Housing Trust Fund has been included in annual appropriations acts or in any other enacted legislation to date.

Efforts to Eliminate or Limit Funding for the HTF

As noted earlier, some in Congress criticize the Housing Trust Fund as being duplicative of other programs or express concerns that it is funded outside the appropriations process or could be vulnerable to misuse. Furthermore, some have argued that the GSEs should not be diverting funding to affordable housing programs while they remain in government conservatorship.

There have been several bills introduced in the 114th Congress and previous Congresses to either eliminate the Housing Trust Fund entirely, or to limit the circumstances under which it can receive funding from the GSEs. For example, in the 114th Congress:

- The Pay Back the Taxpayers Act of 2015 (H.R. 574) would prohibit Fannie Mae and Freddie Mac from providing any funding to the Housing Trust Fund or the Capital Magnet Fund while in government conservatorship or receivership. A version of this bill was also introduced in the 113th Congress (H.R. 3901).
- The House-passed version of the FY2016 HUD appropriations bill (H.R. 2577) would have diverted any funding provided to the Housing Trust Fund to HUD's HOME program instead. However, such a provision was not included in the Consolidated Appropriations Act, 2016 (P.L. 114-113), the law that provided final FY2016 HUD appropriations.

In addition, the Housing Finance Restructuring Act of 2016 (H.R. 4913) would provide for the end of the conservatorship of Fannie Mae and Freddie Mac and require the entities to rebuild capital. The contributions to the Housing Trust Fund and the Capital Magnet Fund would be suspended until Fannie Mae and Freddie Mac had rebuilt a certain amount of capital, but the contributions would continue once that capital threshold was reached.

In the 113th Congress, the New Fair Deal Banking and Housing Stability Act of 2013 (H.R. 3550) would have eliminated several government policies, programs, and agencies related to housing and mortgage markets, including repealing the Housing Trust Fund. In the 112th Congress, the GSE Bailout Elimination and Taxpayer Protection Act was introduced in both the House and the Senate (H.R. 1182 and S. 693, respectively) and would have repealed the section of law that established the Housing Trust Fund. The Housing Trust Fund Elimination Act of 2011 (H.R. 2441) would have eliminated the Housing Trust Fund and transferred any amounts available in the fund to the Treasury, to be used solely for the purpose of reducing the federal budget deficit. None of these bills were enacted.

diverting TARP funds directly to the Housing Trust Fund, rather than using dividends paid to the Treasury by TARP recipients. S. 1731 would have provided $1 billion for the Housing Trust Fund, using funds from the sale of warrants under TARP.

Appendix A. Previous Legislative Proposals to Establish a National Housing Trust Fund

Prior to the enactment of HERA, legislation to establish a national affordable housing trust fund was introduced several times, beginning in the 106th Congress. This appendix provides a brief description of previous legislative proposals to establish a national housing trust fund.

One major question surrounding the creation of an affordable housing trust fund was how such a program would be funded. Early legislation proposed using a portion of receipts from the Federal Housing Administration (FHA). However, because FHA receipts are counted as offsets to appropriations, diverting FHA receipts to a housing trust fund would have a cost.

Later legislation proposed using contributions from Fannie Mae and Freddie Mac as a potential funding source. Fannie Mae and Freddie Mac were chartered by Congress to ensure liquidity in the mortgage market.[73] Their charters give them a special relationship with the federal government that includes both certain privileges and certain responsibilities. Fannie Mae and Freddie Mac purchase mortgages from private lenders, guarantee the principal and interest payments on the mortgages, and package them into mortgage-backed securities that they either hold on their balance sheets or sell to investors. They are overseen by an independent federal regulator.

Because of the GSEs' status as government-sponsored private entities, rather than federal agencies, contributions from Fannie Mae and Freddie Mac would not have counted as new government spending. However, there was some disagreement over whether it was appropriate for the government to require the GSEs to contribute to affordable housing funds. Opponents of GSE contributions argued that the GSEs should not be asked to balance public policy objectives against the interests of their shareholders. Proponents pointed to the special privileges that the GSEs received, and statutory affordable housing goals that they already had, to justify their contributions to a national housing trust fund.[74]

In 2008, HERA created the Housing Trust Fund and the Capital Magnet Fund. Both were to be funded by contributions from Fannie Mae and Freddie Mac. **Table A-1** summarizes previous legislation that had been introduced to create a national housing trust fund, including proposed funding sources.

[73] For more information on Fannie Mae and Freddie Mac, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

[74] For more information on the GSEs' affordable housing goals, see archived CRS Report R43507, *Affordable Housing Provisions in Selected Housing Finance Reform Proposals*, by Sean M. Hoskins, Katie Jones, and N. Eric Weiss.

Table A-1. Previously Introduced Legislation to Create a National Affordable Housing Trust Fund

Bill Number	Bill Title	Brief Description	Final Status
106th Congress			
S. 2997	The National Affordable Housing Trust Fund Act of 2000	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA Mutual Mortgage Insurance Fund (MMI Fund) beyond the amount needed to maintain a capital adequacy level of 3%, as well as any excess revenue generated by Ginnie Mae.	Hearings were held by the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs.
107th Congress			
S. 1248	The National Affordable Housing Trust Fund of 2001	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA MMI Fund beyond the amount needed to maintain a capital adequacy level of 3%, as well as any excess revenue generated by Ginnie Mae.	Hearings were held by the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs.
H.R. 2349	The National Affordable Housing Trust Fund Act of 2001	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA MMI Fund beyond the amount needed to maintain the capital adequacy level required by statute (2%) as well as any excess funds from Ginnie Mae.	The bill was referred to the Subcommittee on Housing and Community Opportunity of the Committee on Financial Services. No hearings were held.
108th Congress			
S. 1411	The National Affordable Housing Trust Fund Act of 2003	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been revenue generated by the FHA MMI Fund beyond the amount needed to maintain a capital adequacy level of 3%, as well as any excess revenue generated by Ginnie Mae.	S. 1411 was referred to the Committee on Banking, Housing, and Urban Affairs. No hearings were held.
Reed Affordable Housing Fund amendment to S. 1508	Amendment to the Federal Housing Enterprise Regulatory Reform Act of 2003	This amendment would have required Fannie Mae and Freddie Mac to annually provide 2.5% of their pre-tax profits into a fund to provide affordable housing grants or other subsidies, and 2.5% of their pre-tax profits into an underserved market fund that would support new mortgage products or increased flexibility to address underserved markets.	This amendment to a GSE reform bill was adopted by the Senate Banking Committee. The bill was ordered reported by the committee, but was not considered on the Senate floor.

Bill Number	Bill Title	Brief Description	Final Status
H.R. 1102	The National Affordable Housing Trust Fund Act of 2003	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The dedicated funding source would have been funds in the FHA MMI Fund beyond those needed to maintain the capital adequacy level required by law (2%), as well as any excess funds received by Ginnie Mae.	The bill was referred to the Subcommittee on Housing and Community Opportunity of the Committee on Financial Services. No hearings were held.
109th Congress			
H.R. 1461	The Federal Housing Finance Reform Act of 2005	This bill, as passed by the House, would have required each GSE to establish and manage an affordable housing fund and established requirements for the funds. The dedicated funding source would have been either 3.5% or 5% of Fannie Mae's and Freddie Mac's prior year's after-tax income, depending on the year. The bill included a sunset provision after five years, after which the GSEs would no longer have been required to make contributions.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs
110th Congress			
H.R. 1427	The Federal Housing Finance Reform Act of 2007	This bill, as passed by the House, would have established an affordable housing fund and established requirements for the fund. The dedicated funding source would have been 1.2 basis points for each dollar of Fannie Mae's and Freddie Mac's average total mortgage portfolio for the preceding year. The bill included a sunset provision after five years, after which the GSEs would no longer have been required to make contributions.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.
H.R. 1852	The Expanding American Homeownership Act of 2007	This bill, as passed by the House, would have authorized appropriations in an amount equal to the net increase in negative credit subsidy for certain FHA programs in each fiscal year. The appropriation would have been used for designated housing activities, including grants to an affordable housing fund.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.
H.R. 2895	The National Affordable Housing Trust Fund Act of 2007	This bill, as passed by the House, would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The bill did not include a permanent funding source, but provided that the trust fund would include any amounts transferred from Fannie Mae and Freddie Mac, any amounts appropriated pursuant to H.R. 1852, or any other amounts that may be appropriated, transferred, or credited to the trust fund.	The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.

Bill Number	Bill Title	Brief Description	Final Status
S. 2391	The Government Sponsored Enterprise Mission Improvement Act	This bill would have established an affordable housing block grant program and a Capital Magnet Fund and established requirements governing both programs. The dedicated funding source would have been GSE contributions of 4.2 basis points for each dollar of the unpaid principal balance of their total new business purchases.	The bill was referred to the Committee on Banking, Housing, and Urban Affairs. No hearings were held.
S. 2523	The National Affordable Housing Trust Fund Act of 2007	This bill would have established a National Affordable Housing Trust Fund and established requirements governing the fund. The bill did not include a permanent funding source, but provided that the trust fund would include any amounts transferred from Fannie Mae and Freddie Mac, any amounts appropriated pursuant to H.R. 1852, or any other amounts that may be appropriated, transferred, or credited to the trust fund.	The bill was referred to the Committee on Banking, Housing, and Urban Affairs. No hearings were held.
H.R. 3221	The Housing and Economic Recovery Act of 2008	This bill, as passed by both the House and Senate, established the Housing Trust Fund and the Capital Magnet Fund and established requirements governing both programs. The dedicated funding source is GSE contributions of 4.2 basis points for each dollar of the unpaid principal balance of their total new business purchases.	This bill became P.L. 110-289, which authorized the Housing Trust Fund and the Capital Magnet Fund and identified a permanent funding source.

Source: Table compiled by CRS based on information from https://www.congress.gov/.

Appendix B. State HTF Allocations in 2016

HUD announced the first state allocations from the Housing Trust Fund in May 2016. (These allocations are from the funds that were set aside by Fannie Mae and Freddie Mac during calendar year 2015.)

Table B-1 shows each state's and insular area's formula allocation, organized from the largest allocation to the smallest. Most states received the minimum allocation amount of $3 million. The minimum allocation applies to the 50 states and DC, but not to Puerto Rico and the insular areas.

Table B-1. State HTF Allocations in 2016

State	Allocation
California	$10,128,143
New York	$7,013,963
Texas	$4,778,364
Florida	$4,598,821
Illinois	$4,302,012
Pennsylvania	$3,862,285
Ohio	$3,740,578
New Jersey	$3,733,566
Michigan	$3,522,622
Massachusetts	$3,419,569
Georgia	$3,314,612
North Carolina	$3,280,235
Washington	$3,243,721
Virginia	$3,139,830
Wisconsin	$3,004,558
Alabama	$3,000,000
Alaska	$3,000,000
Arizona	$3,000,000
Arkansas	$3,000,000
Colorado	$3,000,000
Connecticut	$3,000,000
Delaware	$3,000,000
District of Columbia	$3,000,000
Hawaii	$3,000,000
Idaho	$3,000,000
Indiana	$3,000,000
Iowa	$3,000,000
Kansas	$3,000,000
Kentucky	$3,000,000

State	Allocation
Louisiana	$3,000,000
Maine	$3,000,000
Maryland	$3,000,000
Minnesota	$3,000,000
Mississippi	$3,000,000
Missouri	$3,000,000
Montana	$3,000,000
Nebraska	$3,000,000
Nevada	$3,000,000
New Hampshire	$3,000,000
New Mexico	$3,000,000
North Dakota	$3,000,000
Oklahoma	$3,000,000
Oregon	$3,000,000
Rhode Island	$3,000,000
South Carolina	$3,000,000
South Dakota	$3,000,000
Tennessee	$3,000,000
Utah	$3,000,000
Vermont	$3,000,000
West Virginia	$3,000,000
Wyoming	$3,000,000
Puerto Rico	$326,054
Guam	$77,609
Virgin Islands	$56,562
Northern Mariana Islands	$35,735
American Samoa	$12,321
Total	***$173,591,160***

Source: HUD, "HUD Allocates $174 Million through New Housing Trust Fund," press release, May 4, 2016, http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-068.

Author Information

Katie Jones
Analyst in Housing Policy

Disclaimer